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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 2-1-2007

Coram

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice N.PAUL VASANTHAKUMAR

W.P.No.66 of 2007 and M.P.Nos.1 & 2 of 2007

A. Mohammed Nassar ... Petitioner

`Vs.

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003

2. The Executive Engineer,
Zone-X, Town Planning Section,
Corporation of Chennai,
Chennai - 600 020.

3. The Deputy Commissioner,
Zone-X, Works Department,
Corporation of Chennai,
Chennai - 600 020.

4. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore,
Chennai - 600 008. ... Respondents

Prayer: Writ petition filed under Article 226 of Constitution o
India, praying this Court to issue a writ of Certiorari calling fo
the records relating to the order passed by Corporation of Chenna
under section 256(3) on 23.9.2006 and the consequent notic
No.8497/2006/Dn 152, dated 1.12.2006 affixed on 28.12.2006 issued b
Works Department Zone-X, Corporation of Chennai and quash the same.

For Petitioner : Mr.R.Muthukumarasamy,
Senior Counsel
for Mr.N.Senthilkumar
For Respondents 1 to 3: Mr.V.Bharathidasan
For 4th Respondent : Mr.J.Ravindran

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

Mr.V.Bharathidasan, learned standing counsel for the Corporation of Chennai takes notice for the respondents 1 to 3 and Mr.J.Ravindran learned counsel takes notice for the Chennai Metropolitan Development Authority, the 4th respondent herein.

2. Aggrieved by the order dated 23.9.2006 passed by the Corporation of Chennai under section 256(3) and the consequent notice No.8497/2006/Dn 152 dated 1.12.2006 issued by the Works Department Zone-X, Corporation of Chennai, petitioner has filed the above writ petition to quash the same.

3. In view of the order to be passed in this writ petition, we are of the view, it is unnecessary to refer to all the factual details as stated in the affidavit.

4. According to the petitioner, he purchased two houses bearing Door Nos.H-136/1 and H-136/2 in Division 152, by way of registered sale deeds. Thereafter he wanted to put up additional construction and therefore made a representation to the Tamil Nadu Housing Board Besant Nagar Division. The Besant Nagar Division of the Tamil Nadu Housing Board issued No Objection Certificate on 28.11.2005 for putting up additional construction. Before issuing No Objection Certificate, petitioner applied for planning permission before the Executive Engineer, Town Planning Section, Zone-X, Corporation of Chennai, for putting up additional construction. By communication dated 9.8.2005, the said Officer informed the petitioner that there is violation in respect of the front set back and side set back and therefore the planning application was returned as unconsidered. It is further stated that the Corporation of Chennai has assessed the construction put up by the petitioner on 8.8.2006 itself and that he carried out the construction in accordance with the plan submitted. Whileso, on 28.12.2006 the Works Department, Zone-X, Corporation of Chennai affixed notice under section 378 of Madras City Municipal Corporation Act for demolition of the said constructions. On 26.12.2006 petitioner sent a representation to the zonal office of the Corporation of Chennai stating that he had demolished a portion of the building covering back and side set back. He also submitted a fresh plan seeking planning permission and building permit in accordance with the Development Control Rules and the same is pending with the Corporation of Chennai. It is also stated that a planning permission application was submitted before the Chennai Metropolitan Development Authority on 2.1.2007 in accordance with the Development Control Rules and the same is pending.

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5. Apart from the above details, the learned Senior Counsel appearing for the petitioner brought to our notice that the petitioner has also paid the necessary charges viz. Rs.300/- towards approval of the revised plan.

6. In the light of the assertion of the writ petitioner that after demolishing the offending portion of his buildings covering backside set back, he made a representation on 26.12.2006 seeking fresh planning permission and building permit in accordance with the Development Control Rules and the same is pending before the Corporation of Chennai and also of the fact that the petitioner has made similar application to the Chennai Metropolitan Development Authority with necessary charges, we are of the view that ends of justice would be met by passing the following order,

(a) The Executive Engineer, Zone-X, Town Planning Section, Chennai-20, the second respondent herein is directed to consider and dispose of the representation of the petitioner dated 26.12.2006 in accordance with law.

(b) The Member Secretary, CMDA, the 4th respondent herein is directed to consider and pass orders on the application of the petitioner dated 2.1.2007 in accordance with law.

(c) Both the authorities are directed to pass orders on the representation/application of the petitioner as expeditiously as possible.

(d) Till such time both the authorities dispose of the representation/application of the petitioner, no demolition work shall be carried out in respect of the properties in question as per notice No.8497/2006/Dn 152 dated 1.12.2006.

The writ petition is disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

vr

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Commissioner, Corporation of Chennai,
   Rippon Buildings, Chennai - 600 003

2. The Executive Engineer, Zone-X, Town Planning Section,
   Corporation of Chennai, Chennai - 600 020.

3. The Deputy Commissioner, Zone-X, Works Department,
   Corporation of Chennai, Chennai - 600 020.

4. The Member Secretary, Chennai Metropolitan Development Authority,
   Egmore, Chennai - 600 008.

+ 1 cc to Mr. N. Senthil Kumar, Advocate, SR No.118

+ 1 cc to Mr. J. Ravindran, Advocate, SR No.382

+ 1 cc to Mr. V. Bharathidasan, Advocate, SR No.203

BV(CO)
SR/12.1.2007

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